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Letter dated 4 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Ukraine submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulate as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 3 May 2006 from the Permanent Representative of Ukraine to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to the letter dated 31 January 2006 from the Chairman of the Counter-Terrorism Committee, I have the honour to submit the information on the comments/questions that were agreed on by the Committee after its consideration of the supplementary report of Ukraine submitted on 22 October 2004 pursuant to paragraph 6 of Security Council resolution 1373 (2001).

(*Signed*) Valeriy **Kuchinsky**
Ambassador
Permanent Representative

Enclosure

[Original: Russian]

Supplementary report on measures taken by Ukraine in implementation of Security Council resolutions 1373 (2001) and 1624 (2005)

Reply to question 1.1

With a view to preventing money-laundering and the financing of terrorism and implementing the Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF), the Verkhovna Rada (Parliament) on 1 December 2005 adopted the Act amending certain acts of Ukraine on enhancement of the legal regulation of international cooperation in preventing the financing of terrorism", which entered into force on 1 January 2006. Amendments have been made to the Act on measures to prevent and counteract the legalization (laundering) of proceeds of crime (article 12-1, "Preventing and counteracting the financing of terrorism", was added), the Act on banks and banking activities and the Act on the National Bank of Ukraine.

The Security Service of Ukraine, in cooperation with the Ministry of Justice, is preparing proposals for amendments to the Criminal Code in connection with the signing by Ukraine of the Council of Europe Convention on the Prevention of Terrorism.

Reply to question 1.2

The legislation in force in Ukraine makes it possible to take effective action to combat manifestations of terrorism and also provides for cooperation between the relevant ministries and departments in that regard.

Article 258 (Terrorist act) of the Criminal Code establishes liability not only for the direct perpetration of a terrorist act or preparations for such an act, but also for organizational, material or other assistance for the activities of a terrorist organization.

In 2004 and 2005, on the basis of material obtained, checks were carried out on the financial activities of 26 natural and legal persons whose transactions were giving rise to suspicion. However, there were no indications that they were involved in the financing of terrorism.

Reply to question 1.3

As part of international cooperation under the bilateral and multilateral treaties entered into by Ukraine, work on information exchange relating to the prevention of terrorism, in conjunction with foreign law enforcement agencies, special services and international organizations working to combat international terrorism, has been intensified with a view to preventing the entry into Ukrainian territory of individuals involved in the activities of international terrorist and religious-extremist organizations.

In this connection, the Security Service organized and conducted 35 working meetings in 2005 with representatives of the special services and law enforcement

agencies of 13 countries: the United Kingdom of Great Britain and Northern Ireland, Israel, France, Spain, Italy, Germany, the Netherlands, the United States of America, Hungary, the Czech Republic, Romania, Kazakhstan and the Russian Federation. In the context of cooperation, 179 written notifications have been exchanged with the special services of the following countries: the United States, Greece, Germany, France, Israel, Canada, the United Kingdom, Turkey, Finland, Sweden, Italy, Austria, Romania, Poland, Bulgaria, the Slovak Republic, the Czech Republic and the Russian Federation.

It is not possible to disclose the content of information requests or to give examples of such cooperation without the prior consent of the foreign State that is the cooperation partner.

Reply to question 1.6

On 15 November 2004, the President of Ukraine approved Programme No. 1402-23t/2004 "Counter-Terrorism Measures 2005-2007". This Programme involves the establishment of preventive measures to improve the protection of individuals and preserve their health, to strengthen civil security, to improve the protection of particularly important sites and to prevent manifestations of terrorism in Ukraine.

In accordance with Cabinet of Ministers Decision No. 359 of 18 March 2006 approving the action plan for 2006 for prevention of the legalization (laundering) of proceeds of crime and the financing of terrorism, the Security Service has elaborated and is implementing a plan with a time frame which provides for the following:

- Continuation of work to implement, through amendments to the law, international standards relating to prevention of the legalization of "dirty" money;
- Improvement of the national system for non-cash payments;
- Implementation of measures to prevent the proceeds of crime from being used to establish statutory funds of financial institutions, and identification of new mechanisms and means through which banking and financial technologies are used to legalize "dirty" money;
- Development of a typology of the legalization (laundering) of proceeds of crime and improvement of the mechanism for cooperation with the State Department of Financial Monitoring;
- Ongoing participation by representatives of the Security Service in the work of the Interdepartmental Working Group for the study of methods and trends in the laundering of proceeds of crime;
- Application in practical activities of the experience of foreign States that are members of FATF in preventing and counteracting the legalization of "dirty" money, and participation in international action under the aegis of FATF;
- Continuation of work on the drafting and concluding of appropriate agreements on cooperation with counterpart special services and law enforcement agencies of foreign States.

- Systematic provision of information to the Ministry of Foreign Affairs on measures taken by the Security Service to counteract the legalization of proceeds of crime and the financing of terrorism.

In accordance with Cabinet of Ministers Decision No. 1896 of 10 December 2003, the following were approved: the Programme for the establishment of a single national information system with regard to the prevention and counteracting of the legalization (laundering) of proceeds of crime and the financing of terrorism for the period up to 2006, and the Regulations governing the single national information system with regard to the prevention and counteracting of the legalization (laundering) of proceeds of crime and the financing of terrorism. The aim of the Programme is to establish and define the basis for the operation of a single national information system for cooperation on information-related matters between State authorities responsible for combating the legalization of proceeds of crime and the financing of terrorism; for comprehensive analysis of information on illegally obtained income or income used for the financing of terrorism; for the identification of means of legalizing such income; and for information-related support for the elaboration and implementation of measures to counteract the legalization of proceeds of crime and the financing of terrorism. The Programme provides for the elaboration of preliminary designs for the single information system, the conduct of research, the production of a detailed technical design of the system, operation of the system on a trial basis and subsequent full operation.

To support the process of information collection, processing, storage, analysis and preservation and the establishment of electronic information links between the executive authorities and law enforcement units, the Security Service in 2005 developed and put in place a functional subsystem of the single information system, and also tested it and brought it into operation on a trial basis.

To coordinate the work of the State authorities responsible for combating the laundering of proceeds of crime, the Interdepartmental Working Group for the study of methods and trends in the laundering of money and other proceeds of crime, the membership of which includes representatives of the Security Service, was set up by Presidential Decree No. 532 of 19 July 2001 on additional measures to combat the laundering of proceeds of crime.

The Interdepartmental Working Group is a permanent deliberative body through which the Cabinet of Ministers coordinates the work of the law enforcement agencies and financial and other central authorities in efforts to combat the laundering of proceeds of crime. The Group's main priorities are to participate in the preparation of proposals relating to the implementation in national law of international and European standards for combating money-laundering, and to participate in the implementation of other organizational, legal and practical measures in this area.

The Security Service, the Ministry of Internal Affairs and the Administration of the State Border Service have issued a joint Instruction on the procedure for information exchange between the Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine and the State Border Service of Ukraine in the sphere of counter-terrorism. The Instruction establishes the procedure for information exchange between these State authorities in the sphere of counter-terrorism (hereinafter referred to as "information exchange") and regulates the recording of data in this regard and access by law enforcement agencies to the information

recorded. This type of information exchange is effected through the centralized recording of data on counter-terrorism obtained by the above State authorities, with subsequent use of the results of the recording process to meet the relevant information requirements of these authorities on the basis of information requests. The central database of the Security Service provides the technological basis for centralized data recording.

Reply to question 1.8

In implementation of Security Council resolutions 1267 (1999), 1333 (2000) and 1373 (2001), the Cabinet of Ministers in 2001 adopted Decision No. 351, which provides for measures to freeze and seize the assets of individuals and entities involved in the activities of the Taliban extremist movement and the Al-Qaida terrorist organization.

In this connection, a set of measures is being implemented on an ongoing basis to identify accounts and financial assets in Ukrainian banking institutions that may be in use by individuals or entities on the relevant Security Council list that are involved in Taliban or Al-Qaida activities.

To date, no cases have been identified of business entities in Ukraine being used by international terrorist or religious-extremist organizations to accumulate and legalize (launder) financial resources through the Ukrainian banking system.

Reply to question 1.10

Ukraine's report to the Security Council Committee established pursuant to resolution 1540 (2004) stated that the legal and regulatory basis for State export control in Ukraine consists of the Constitution, laws, Presidential decrees, decisions of the Cabinet of Ministers, other legislative and regulatory acts and also international treaties to which Ukraine is party that have been ratified by the Verkhovna Rada.

State export control policy is implemented by a designated authority responsible for State export control known as the State Export Control Service of Ukraine (Goseksportkontrol), which was established by Presidential Decree No. 1265 of 27 December 2001. The Regulations governing the State Export Control Service of Ukraine were approved by Presidential Decree No. 342 of 17 April 2002.

These Regulations establish that the primary mission of the State Export Control Service is to implement measures aimed at instituting and ensuring State control of international transfers of military and dual-use goods (hereinafter referred to as goods subject to State export control) and verifying that such goods are used for the declared purposes, including preventing their use for terrorist or other illegal purposes.

In order to meet these goals, the State Export Control Service carries out the following activities:

– It elaborates and implements measures pursuant to Ukrainian law to ensure that State interests are protected during international transfers of goods subject to State export control and measures to prevent the use of such goods for terrorist and other illegal purposes;

- In accordance with established procedure, it issues entities with licences (certificates) entitling them to carry out international transfers of goods subject to State export control and to engage in negotiations on the signing of foreign trade agreements (contracts) for international transfers of such goods and takes decisions on the revocation, temporary suspension and extension of such licences (certificates);

- Pursuant to the law and subsequent to expert analyses in the sphere of export control, it issues international import certificates and other documents containing State guarantees that goods will be used for the declared purposes and takes decisions regarding the withdrawal of such guarantees;

- It registers, in accordance with established procedure, entities undertaking international transfers of goods subject to State export control;

- It takes measures to prevent export control violations, carries out monitoring to ensure that goods subject to State export control are used for the declared purposes and keeps a register of legal persons, Ukrainian citizens and their foreign partners that have, in the course of international transfers of goods subject to State export control, violated Ukrainian law;

- It monitors compliance with the requirements of Ukrainian law on State export control and the fulfilment of Ukraine's international obligations during international transfers of goods subject to State export control;

- It prepares and provides to the Ministry of Foreign Affairs and the Secretariat of the President of Ukraine information, as provided for under Ukraine's international obligations, on international transfers of goods subject to State export control and, in accordance with established procedure, exchanges information on State export control with the relevant agencies of foreign States and other international organizations, under the international treaties to which Ukraine is party that have duly entered into force;

- In cases and under procedures set out in the legislation in force, it prosecutes entities undertaking international transfers of goods for violations of the requirements of the law relating to State export control.

State control over international transfers of military and dual-use goods is governed by the Act on State control over international transfers of military and dual-use goods. Pursuant to article 18, part 2, of the Act, the procedure for such control shall be established by the Cabinet of Ministers of Ukraine.

Pursuant to paragraph 3 of the procedure for State control of international transfers of military goods, approved by Cabinet of Ministers Decision No. 1807 of 20 November 2003, international transfers of such goods may be carried out by an entity undertaking international transfers of goods or by a foreign economic entity that is in possession of the relevant licence or certificate from the State Export Control Service. Such licence or certificate entitling the holder to carry out the relevant international transfer of military goods serves as the basis for providing the importer with the set of technical documentation necessary to set up, operate or use the goods for the intended purpose in quantities set out in the licence or certificate. It is prohibited to export individual goods to States against which the United Nations Security Council has imposed an embargo on the export of such goods and also in the event that expert analyses in the area of State export control give grounds

to believe that they are intended for the production of weapons of mass destruction or their means of delivery; use for terrorist or other illegal acts; use in activities connected with the production of nuclear explosive devices or in activities connected with the nuclear fuel cycle which are not under International Atomic Energy Agency (IAEA) safeguards; or use in activities connected with the acquisition, production, stockpiling or use of chemical weapons in warfare or as pathogens.

In accordance with the Regulations governing the procedure for State control of negotiations to conclude foreign trade agreements (contracts) for international transfers of military and dual-use goods (approved by Cabinet of Ministers Decision No. 125 of 4 February 1998) and the Procedure for State control of international transfers of dual-use goods (approved by Cabinet of Ministers Decision No. 86 of 28 January 2004), the State Export Control Service has been appointed the main State body to carry out a range of measures relating to the conduct of such negotiations and the exercise of State control.

Since 22 December 2004, the following decisions of the Cabinet of Ministers of Ukraine have been reviewed and amendments introduced:

- Cabinet of Ministers Decision No. 1807 of 20 November 2003 approving the Procedure for State control of international transfers of military goods (amended by Cabinet of Ministers Decisions No. 1432 of 28 December 2004, No. 1721 of 23 December 2004, No. 622 of 21 July 2005 and No. 1209 of 15 December 2005);

- Cabinet of Ministers Decision No. 86 of 28 January 2004 approving the Procedure for State control of international transfers of dual-use goods (amended by Cabinet of Ministers Decisions No. 274 of 13 April 2005, No. 622 of 21 July 2005 and No. 1209 of 15 December 2005).

In December 1998, a Presidential Decree established the Anti-Terrorism Centre under the Security Service of Ukraine, whose primary responsibility is to coordinate the efforts of the executive authorities in the prevention and interdiction of terrorist acts against State officials, facilities critical to public welfare and particularly hazardous facilities, which threaten the life and health of individuals.

Structurally, the Anti-Terrorist Centre consists of the Interdepartmental Coordinating Commission, the Headquarters and the coordinating groups under regional organs of the Security Service. The Regulations governing the Anti-Terrorism Centre, promulgated by a Presidential Decree of 11 April 1999, identify the Centre as a permanent body.

The Interdepartmental Coordinating Commission is made up of the heads of the Centre and his or her deputies, as well as the first deputy heads of the ministries and departments legally responsible for combating terrorism. As a collegiate deliberative body of the Centre, the Commission discusses the conceptual bases and draft programmes for combating terrorism, recommendations to improve the State-wide counter-terrorism system, the overall plans of the ministries and departments for the early warning and prevention of manifestations of terrorism and the plans of the regional coordinating groups, and organizes and conducts counter-terrorist operations, command-post and special tactical exercises.

As the executive body of the Centre, the Headquarters is responsible for the ongoing organizational work of the Centre.

The work of the coordinating groups under the Security Service regional bodies reflects the structure of the Anti-Terrorist Centre, which is linked to the administrative and territorial divisions of the State, significantly enhancing the Centre's mobility so that it may carry out its appointed tasks at the appropriate time and place. The membership of the regional coordinating groups includes the heads of the Security Service regional bodies (heads of the regional coordinating groups) and the regional heads of the ministries and departments responsible for combating terrorism.

In connection with action to strengthen the organization of international efforts to combat terrorism, the Centre's function in this area was expanded as of the adoption of a Presidential Decree of 26 July 2001, which determined the procedure for cooperation with international counter-terrorist organizations.

Clearly, the structural components of the Centre (the Interdepartmental Coordinating Commission, the Headquarters and the regional coordinating groups) are interconnected, naturally complement one another and, as a whole, constitute the basis for the State-wide counter-terrorism system.

The problem of comprehensive (analytical, political, legal and institutional) coordination of State-wide counter-terrorism activity, especially with respect to early warning and prevention and major crises, was addressed by the establishment in November 2002 of a standing deliberative body, the Crisis Centre, in accordance with a Presidential Decree. The purpose of the Centre is to improve cooperation among the entities responsible for combating terrorism and to improve the coordination of measures taken by them regarding the implementation of State policy for the prevention and management of crisis situations which arise as a result of manifestations of extremism or terrorism. The headquarters of the Anti-Terrorism Centre is designated as the working body of the Crisis Centre.

For the purpose of enhancing the effectiveness of the operation of the State-wide counter-terrorist system and developing coordination mechanisms and forms and methods of cooperation between central executive authorities and their regional agencies, more than 350 studies were prepared and carried out between 2003 and 2005, drawing extensively on the capacities of various departments.

Ukraine has thus established a clear and logical structure of specialized State bodies to organize and coordinate efforts to combat terrorism.

This structure has a flexible and operational system of forces and equipment and regulatory procedures for running counter-terrorist operations (and managing the crises that may ensue from terrorist acts).

Reply to question 1.12

The International Convention for the Suppression of Acts of Nuclear Terrorism was ratified by Act No. 3533-IV of 15 March 2006. In accordance with article 3 of this Act, the Security Service drafted a bill amending certain acts of Ukraine on the suppression of nuclear terrorism in connection with the ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism. The aforementioned bill, No. 16/952 of 17 April 2006, was submitted for approval to the

Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Defence, the Ministry of Finance and the Ministry of Economic Affairs of Ukraine. After agreement among the ministries and legal review by the Ministry of Justice, the bill will be submitted to the Cabinet of Ministers of Ukraine.

Reply to question 1.13

On the basis of Security Council resolution 1373 (2001), the Government of Ukraine is considering various forms of involvement in European and other international arrangements to combat terrorism and the development and strengthening of cooperation with the law enforcement agencies and special services of other countries.

Concerning counter-terrorism issues, Ukraine has concluded 82 international agreements; in particular, the Security Service has signed more than 70 interdepartmental agreements and more than 80 protocols thereto, in which priority attention is focused on issues of combating international terrorism.

In January 2006, within the framework of implementing the comprehensive project entitled "Belarus, Ukraine and Moldova against Drugs" (BUMAD), Security Service representatives took part in a workshop at the United Nations Development Programme (UNDP) office in Ukraine, together with European Union experts. During the workshop, there were discussions on ways of introducing the European Union system for monitoring of the drugs situation, using in particular the drugs and crime indicator.

Work has been stepped up under other components of the UNDP BUMAD project. Experts from the Security Service, together with the Ministry of Internal Affairs and the Administration of the State Border Service of Ukraine, have implemented a project to establish an interdepartmental system for information exchange in the area of drugs. Representatives of the Security Service took part in a workshop organized by UNDP last December in France, where, with the assistance of the French criminal police and gendarmerie, a study was conducted of the special data visualization software used during forensic analysis within the framework of investigations and criminal cases. Discussion is under way on the organization of a similar workshop in Kyiv.

Another practical outcome of the cooperation between divisions of the Security Service and the UNDP office in Ukraine was the announcement in March 2006 of a tender for the purchase of forensic equipment using BUMAD project funds.

Security Service representatives took part in the BUMAD regional workshop on cross-border cooperation (Moldova, 17-21 April 2006) within the framework of the border-point control project. Aside from representatives of Ukraine, Moldova and Belarus, experts from countries of the European Union took part in the workshop. This year, cooperation was extended within the Georgia, Ukraine, Azerbaijan, Moldova Group. In particular, there are plans to conduct a regional international operation entitled "Harmony 2006" to prevent drug smuggling using various means of transport. As part of the preparations for this operation, a delegation of the Security Service of Ukraine took part in a working meeting organized under the auspices of the Euro-Atlantic Advisory Team in Baku (1-6 April 2006).

Preparations are under way for the participation of a Security Service representative in the work of the International Drug Enforcement Conference (IDEC), the eminent international law enforcement forum which plans to hold its next meeting in May 2006 in Canada.

During 2005 and 2006, measures were taken within the framework of 15 bilateral and multilateral international operations to identify drug smuggling channels in all the major risk areas.

As part of efforts to combat transnational organized crime, the Security Service of Ukraine has established cooperative ties with 54 ministries and departments from Poland, the United States, Germany, the United Kingdom, France, the Czech Republic, the Netherlands, the Georgia, Ukraine, Azerbaijan, Moldova Group, the Commonwealth of Independent States and others.

2. Implementation of Security Council resolution 1624 (2005)

Reply to question 2.5

In implementation of Security Council resolution 1624 (2005) of 14 September 2005, the law enforcement agencies of Ukraine are undertaking efforts to:

- Prohibit incitement to commit terrorist acts and prevent actual terrorist acts against diplomatic missions in Ukraine;
- Prevent the use of the Ukrainian segment of the Internet by terrorist organizations for the purpose of disseminating propaganda, by drawing up a list of features whose presence or absence points to the use of Internet channels for illicit purposes, and by establishing legal mechanisms for the appropriate search operations.

The Security Service of Ukraine, together with the executive bodies concerned, has drafted a bill on the organizational and legal basis for countering extremism, which is under negotiation.